

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

THOMAS ROSENBURG *et al.*, on behalf of
themselves and classes of those similarly
situated,

Plaintiffs,

v.

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Defendant.

Case No. CV 06-00430 PJH

STIPULATION AND [PROPOSED]
ORDER STAYING LITIGATION
PROCEEDINGS OTHER THAN
PROCEEDINGS RELATED TO
SETTLEMENT

This Stipulation is entered into by and between Thomas Rosenburg, James Baxter, Sherry Mattson, Steve Park, Fnu Kennedy, Exaldo Topacio, Vincent Letizio, Frank Vasterling, Robert Carlo, Laurence Tosi III, Michelle Peel, Denise Ramsel, Robin Daniels, Marcia Howie, Rebecca Taylor and Alan Erece ("Plaintiffs"), by and through their undersigned counsel, and International Business Machines Corporation ("IBM" or the "Company"), by and through its undersigned counsel. Plaintiffs and the Company are collectively referred to herein as the "Parties."

RECITALS

WHEREAS, the Parties to this action have negotiated a settlement of the case;

1 WHEREAS, on November 22, 2006, Plaintiffs filed a Motion for Order (1) Conditionally
2 Certifying Settlement Classes and Collective Action, (2) Granting Preliminary Approval to
3 Proposed Class Action Settlement and Plan of Allocation, (3) Directing Dissemination of Notice,
4 and Claim Form to the Class, (4) Approving Releases, and (5) Setting Date for Fairness Hearing
5 and Related Dates;

6 WHEREAS, that motion is currently scheduled for a hearing on January 3, 2007;

7 WHEREAS, for the reasons set forth above, good cause exists to stay the proceedings in
8 this case, with the exception of proceedings related to approval and implementation of the
9 settlement;

10 WHEREAS, the only other modifications of time that the Parties have sought were a
11 thirty-day stipulated extension of the deadline for IBM to respond to the Complaint, two
12 stipulated continuances of the Case Management Conference, a stipulated extension of the
13 deadlines for Plaintiffs' Hoffmann motion and IBM's motion for summary judgment from
14 October 13, 2006, to, respectively, November 21, 2006 and November 22, 2006, and a stipulated
15 order vacating certain deadlines pending settlement discussions;

16 WHEREAS, except as set forth below, no other dates are affected by these changes;

17 WHEREAS, only to the extent specified below, this Stipulation and Order modifies (1)
18 the Stipulation and Order Regarding Case Schedule, Tolling of FLSA Statute of Limitations, and
19 Potential Collective Action Member Contact Information entered on June 7, 2006; (2) the Civil
20 Minutes order entered on August 18, 2006; (3) the Stipulation and Order Extending Tolling of
21 FLSA Statute of Limitations, Tolling Statutes of Limitations for Certain State Law Claims, and
22 Extending Schedule for Filing Certain Motions entered on October 5, 2006; and (4) the
23 Stipulation and Order Extending Tolling of Statutes of Limitations and Amending Case Schedule
24 entered on November 15, 2006. Except as modified, all four of these Stipulations and Orders
25 shall otherwise continue in full force and effect.

26 THEREFORE, the Parties stipulate and agree as follows:

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STIPULATION AND AGREEMENT

1. The Case Management Conference scheduled for January 11, 2007 (as specified in the Court's August 17, 2006 Civil Minutes order) is vacated.

2. All litigation proceedings, including discovery, except those proceedings related to the settlement, are stayed.

3. Defendant shall not be required to file an answer or other responsive pleading or to move in response to Plaintiffs' Second Amended Complaint, filed on November 22, 2006, unless and until the Court lifts this stay of litigation proceedings and sets a date for Defendant to file an answer or other responsive pleading or to move in response to the Second Amended Complaint.

4. This stay of litigation shall not apply to any proceedings related to approval and implementation of the settlement of this case. The January 3, 2007 hearing on Plaintiffs' Motion for Order (1) Conditionally Certifying Settlement Classes and Collective Action, (2) Granting Preliminary Approval to Proposed Class Action Settlement and Plan of Allocation, (3) Directing Dissemination of Notice, and Claim Form to the Class, (4) Approving Releases, and (5) Setting Date for Fairness Hearing and Related Dates, and any further proceedings related to the settlement, shall proceed and shall not be affected by this stay.

Dated: December 8, 2006

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27 *Attorneys for Plaintiffs and the proposed
28 Plaintiff Classes*

ORDER

The foregoing Stipulation is approved, and IT IS SO ORDERED.

DATED: 1/3/07



1 I hereby attest that I have on file all holograph signatures for any signatures indicated by a
2 "conformed" signature (/s/) within this e-filed document.

3 Dated: December 8, 2006

4 /S/ Donna M. Mezias

5 Donna M. Mezias

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